APPENDIX "A"

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 18457

KENNETH WILSON WOOD, WILBUR REEVES, and CLEO E. LOVETT,

Appellants,

versus

UNITED STATES OF AMERICA,

Appellee.

Appeal from the United States District Court for the Middle District of Alabama.

(March 17, 1961.)

Before TUTTLE, Chief Judge, and JONES and WISDOM, Circuit Judges.

PER CURIAM: Appellants complain of their conviction of participation in a conspiracy to violate the liquor laws on two principal grounds. The first is that there was a lack of substantial evidence that would tie all of the accused persons into a single conspiracy. The second is that the trial court erred in not charging the jury that in considering circumstantial

evidence they must reject such evidence unless the evidence not only was consistent with the guilt of the accused but was inconsistent with any other hypothesis.

As to the first point we find that there was sufficient evidence that all parties were tied together in a single conspiracy to sustain the jury's verdict.

As to the second point, not only did appellants fail to comply with Rule 30 of the Federal Rules of Criminal Procedure, since they did not request such a charge, but even if they had it would not have been error for the trial court to have refused it. *Holland v. United States*, 348 U. S. 121.

The judgment is AFFIRMED.

APPENDIX "B"

JUDGMENT

Extract from the Minutes of March 17, 1961

KENNETH WILSON WOOD, WILBUR REEVES, and CLEO E. LOVETT,

No. 18457.

versus

UNITED STATES OF AMERICA

This cause came on to be heard on the transcript of the record from the United States District Court for the Middle District of Alabama, and was argued by counsel;

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court that the judgment of the said District Court in this cause be, and the same is hereby, affirmed.

APPENDIX "C"

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 18,457

KENNETH WILSON WOOD, WILBUR REEVES and CLEO E. LOVETT,

Appellants,

v.

UNITED STATES OF AMERICA,

Appellee.

Appeal from the United States District Court for the Middle District of Alabama

(April 25, 1961)

ON PETITION FOR REHEARING

Before TUTTLE, Chief Judge, JONES and WISDOM, Circuit Judges.

PER CURIAM:

It is ORDERED that the petition for rehearing filed in the above styled and numbered cause be, and the same is, hereby DENIED.

APPENDIX "D"

FEDERAL RULES OF CRIMINAL PROCEDURE
RULE 30.

> ". . . No party may assign as error any portion of the charge or omission therefrom unless he objects thereto before the jury retires to consider its verdict, stating distinctly the matter to which he objects and the grounds of his objections."

RULE 30(b).

> "Plain Error. Plain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the court."